



03/31/97

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT of

PAGE

Atty. Ref: 1430-95

U.S. Patent No. 5,545,404

Issued: August 13, 1996

For: **METHOD FOR TREATING A MAMMAL  
SUFFERING FROM A T-CELL MEDIATED  
DISORDER WITH A CHO-GLYCOSYLATED  
ANTIBODY**

\* \* \* \* \*

Honorable Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

**DECLARATION**

Sir:

I, Martin J. Page, hereby declare and state as follows:

1. I am a citizen of the United Kingdom and reside at 108 High Street, Yelling, Cambridgeshire, PE19 4SD, U.K.
2. I am named as sole inventor on the above-identified patent, which issued from an application that claims priority from Application No. 777,730, filed October 16, 1991.
3. At the time of filing Application No. 777,730, I was employed by The Wellcome Foundation Limited, London, England, as a Section Head. In 1995, The Wellcome Foundation

Limited merged with Glaxo plc, to form Glaxo Wellcome plc, Middlesex, England. I am currently employed by Glaxo Wellcome plc as Head of the Oncology Research Unit.

4. The procedure for establishing inventorship that was typically followed at The Wellcome Foundation at the time of filing Application No. 777,730, can be described as follows. Once a decision had been reached to seek patent protection for a particular invention, a representative of The Wellcome Foundation Patent Department (usually a European patent attorney) would seek details from each of the participants involved in the project that resulted in the invention, and their managers, as to their contribution to that project. Based on the information received from the participants, the Patent Department representative would then make the determination as to which of the participant(s) made a contribution that, in the representative's opinion, constituted an inventive contribution. Those participants determined to have made such a contribution were named as inventors on the application. This was the procedure that was followed in connection with Application No. 777,730 and that resulted in my being named as sole inventor of the subject matter claimed.

5. At the time of filing Application No. 777,730, I understood that the procedure used at The Wellcome Foundation to establish inventorship (described in paragraph 4 above) was to ensure that inventorship determinations were made by individuals (eg European Patent Attorneys or U. K. Chartered Patent Agents) that were knowledgeable of the legal requirements of inventorship, rather than by members of the technical staff that were less familiar with those requirements.

6. In October of 1996, I was contacted by Nicola Baker-Munton, formerly employed by The Wellcome Foundation Limited, presently a European patent attorney with the MMI Group plc., Cambridge, England. Ms. Baker-Munton serves as a consultant to Glaxo Wellcome plc. on certain patent matters. Ms. Baker-Munton indicated to me that she had considered the activities that resulted in the invention described and claimed in the above-identified patent and,

as a result of that consideration, she had become aware of the possibility that Dr. James Crowe, in addition to myself, may have made an inventive contribution to the subject matter claimed. Together, Ms. Baker-Munton and I discussed the contributions of Dr. Crowe to the methods of treatment claimed in the above patent (similar methods of treatment having been claimed in Application No. 777,730). Ms. Baker-Munton's understanding of those contributions (which I believe derived from her recent discussions with Dr. Crowe) paralleled my own knowledge of Dr. Crowe's involvement. As a result of that review, Ms. Baker-Munton advised me that it was her view that Dr. Crowe's contributions were inventive in nature and that an error had been made during the process of making the initial inventorship determination. Thus, it was in October of 1996, that I first became aware that an error had been made in the inventorship.

7. I believe that the error made in the initial inventorship determination may have resulted from the fact that, at the time that determination was made, a principal focus of the project that resulted in the invention was the development of a process that enabled the balanced expression of the light and heavy chains of an antibody from Chinese hamster ovary cells. That is an aspect of the project for which I was largely responsible.

8. The error that resulted in Dr. Crowe not being named as an inventor was made without any deceptive intention on my part or, to the best of my knowledge, on the part of Dr. Crowe.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Further, declarant sayeth not.

Signed this 29 day of Jan, 1997.

Martin J. Page  
Martin J. Page



03/31/97

## RECORDATION FORM COVER SHEET

U.S. Department of Commerce  
Patent and Trademark Office

## PATENTS ONLY

Our Ref: 1430-95

Commissioner of Patents and Trademarks  
Box Assignment, Washington, D.C. 20231

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

<p>1. Name of conveying party(ies): <u>BURROUGHS WELLCOME CO.</u></p> <p>Additional name/s of conveying party/ies attached? <input type="checkbox"/></p> <p>3. Nature of conveyance:</p> <p><input type="checkbox"/> Assignment                      <input type="checkbox"/> Merger <input type="checkbox"/> Security Assignment           <input checked="" type="checkbox"/> Change of Name <input type="checkbox"/> Other _____</p> <p>Execution Date: <u>October 30, 1995</u></p>	<p>2. Name and address of receiving party(ies):</p> <p>Name: <u>GLAXO WELLCOME INC.</u> Internal Address: _____ Street Address: <u>3030 Cornwallis Road</u></p> <p>_____ City: <u>Research Triangle Park</u> State/Country: <u>North Carolina</u> Zip: <u>27709</u></p> <p>Additional name/s &amp; address/es attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
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4. Application number(s) or patent number(s):  
If this document is being filed together with a new application, the execution date of the application is: \_\_\_\_\_

<p>A. Patent Application No(s).</p> <p>(1) _____ (2) _____ (3) _____</p>	<p>B. Patent No(s).</p> <p>(1) <u>5,545,404</u> (2) _____ (3) _____</p>
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Additional numbers attached ☐ Yes ☒ No

<p>5. Name and address of party to whom correspondence concerning document should be mailed:</p> <p>Name: <u>Mary J. Wilson</u></p> <p>Internal Address: _____</p> <p>Street Address: <u>Nixon &amp; Vanderhye P.C.</u> <u>1100 North Glebe Road</u> <u>8th Floor</u></p> <p>City: <u>Arlington</u> State: <u>VA</u> Zip: <u>22201</u></p>	<p>6. Total number of applications &amp; patents involved: <u>1</u></p> <p>7. Total fee (37 CFR 3.41) ..... \$ <u>40.00</u> <input checked="" type="checkbox"/> Enclosed <input type="checkbox"/> Authorized to be charged to deposit account #14-1140</p> <p>8. The Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper thereafter filed in this application by this form) to our Account No. 14-1140.</p>
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DO NOT USE THIS SPACE

## 9. Statements and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Mary J. Wilson

Name of Person Signing

Reg. No. 32,955

Mary J. Wilson

Signature

October 3, 1996

Date

Total number of pages including original cover sheet, attachments, and document: [ 3 ]

353031023

ARTICLES OF AMENDMENT  
OF  
THE ARTICLES OF INCORPORATION  
OF  
BURROUGHS WELLCOME CO.

0-0019284

FILED

11:31 AM

OCT 30 1995

EFFECTIVE 10-31-95 11:59 PM

RUFUS L EDMISTEN  
SECRETARY OF STATE  
NORTH CAROLINA

Pursuant to Section 55-10-06 of the North Carolina General Business Corporation Act, Burroughs Wellcome Co., a corporation organized under the laws of the State of North Carolina (the "Corporation"), hereby submits these Articles of Amendment for the purpose of amending the Articles of Incorporation of the Corporation:

1. The name of the Corporation is Burroughs Wellcome Co.
2. The following amendment to the Articles of Incorporation of the Corporation was adopted by its shareholders on the 10th day of October, 1995, in the manner prescribed by law:


Article I is hereby amended by deleting its text in its entirety and substituting in lieu thereof the following:

"The name of the corporation is Glaxo Wellcome Inc."

3. These Articles of Amendment shall become effective at 11:59 p.m. on October 31, 1995.

This the 30th day of October, 1995.

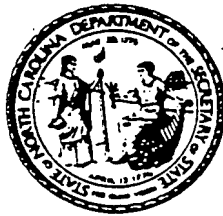
BURROUGHS WELLCOME CO.

By: 

Name: Robert A. Ingram

Title: President and Chairman

# STATE OF NORTH CAROLINA



Department of The  
Secretary of State

To all whom these presents shall come, Greetings:

I, Rufus L. Edmisten, *Secretary of State of the State of North Carolina*, do hereby certify the following and hereto attached to be a true copy of

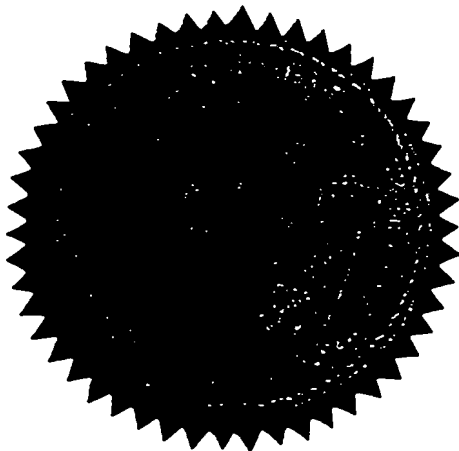
ARTICLES OF AMENDMENT

OF

BURROUGHS WELLCOME CO.  
name changed to:  
GLAXO WELLCOME INC.

*the original of which is now on file and a matter of record in this office.*

*IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 5th day of January, 1996.*



*Rufus L. Edmisten*

Secretary of State

## 1481 Applicant's Mistake [R-1]

### 35 U.S.C. 255. Certificate of correction of applicant's mistake.

Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Commissioner may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form.

### 37 CFR 1.323. Certificate of correction of applicant's mistake.

Whenever a mistake of a clerical or typographical nature or of minor character which was not the fault of the Office, appears in a patent and a showing is made that such mistake occurred in good faith, the Commissioner may, upon payment of the fee set forth in § 1.20(a), issue a certificate, if the correction does not involve such changes in the patent as would constitute new matter or would require reexamination. A request for a certificate of correction of a patent involved in an interference shall comply with the requirements of this section and shall be accompanied by a motion under § 1.635.

37 CFR 1.323 relates to the issuance of Certificates of Correction for the correction of errors which were not the fault of the Office. A mistake is not of a minor character if the requested change would materially affect the scope or meaning of the patent. The fee for providing a correction of applicant's mistake, other than inventorship is set forth in 37 CFR 1.20(a).

The Issue Fee Transmittal Form portion (PTOL-85B) of the Notice of Allowance provides a space (item 5) for assignment data which should be completed in order to comply with 37 CFR 3.81. Unless an assignee's name and address are identified in item 5 of the Issue Fee Transmittal Form PTOL-85B, the patent will issue to the applicant. Assignment data printed on the patent will be based solely on the information so supplied.

A request for a certificate of correction under 37 CFR 1.323 arising from incomplete or erroneous assignee's name furnished in item 5 of PTOL-85B will not be granted unless a petition under 37 CFR 1.183 has been granted. Any such petition under 37 CFR 1.183 should be directed to the Office of Petitions and should include: (1) the petition fee required by 37 CFR 1.17(h); (2) a request that 37 CFR 3.81(a) be waived to permit the correct name of the assignee to be provided after issuance of the patent; (3) a statement (verified if made by other than a registered attorney or agent) that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and (4) a copy of the Notice or Recordation of Assignment Document.

### 35 U.S.C. 256. Correction of named inventor.

Whenever through error a person is named in an issued patent as the inventor, or through error an inventor is not named in an issued patent and such error arose without any deceptive intention on his part, the Commissioner may, on application of all the parties and assignees, with proof of the facts and such other requirements as may be imposed, issue a certificate correcting such error.

The error of omitting inventors or naming persons who are not inventors shall not invalidate the patent in which such error occurred if it can be corrected as provided in this section. The court before which such matter is called in question may order correction of the patent on notice and hearing of all parties concerned and the Commissioner shall issue a certificate accordingly.

In requesting the Office to effectuate a court order correcting inventorship in a patent pursuant to 35 U.S.C. 256, a copy of the court order and a certificate of correction under 37 CFR 1.323 should be submitted to the Certificates of Corrections Branch.



### 37 CFR 1.324. Correction of inventorship in patent.

Whenever a patent is issued and it appears that the correct inventor or inventors were not named through error without deceptive intention on the part of the actual inventor or inventors, the Commissioner may, on petition of all the parties and the assignees and satisfactory proof of the facts and payment of the fee set forth in § 1.20(b), or on order of a court before which such matter is called in question, issue a certificate naming only the actual inventor or inventors. A request to correct inventorship of a patent involved in an interference shall comply with the requirements of this section and shall be accompanied by a motion under § 1.634.

The "satisfactory proof of facts" required by 37 CFR 1.324 must be of the same type and character as the proof required under 37 CFR 1.48 to justify correcting inventorship in a nonprovisional application, as described in MPEP § 201.03. Unlike correction of inventorship in a nonprovisional application under 37 CFR 1.48(a), where the requirement for a verified statement of facts by each originally named inventor may be waived pursuant to 37 CFR 1.183, any correction of inventorship in a patent under 37 CFR 1.324 requires petition of all the parties; i.e., originally named inventors and assignees, in accordance with statute (35 U.S.C. 256) and thus the requirement cannot be waived. Correction of inventorship request under 37 CFR 1.324 should be directed to the Supervisory Primary Examiner whose unit handles the subject matter of the patent.

DATE: 5 May 1997  
TO: Certificate of Corrections Branch  
FROM: Stephen Walsh, SPE Art Unit 1812  
SUBJECT: Request for Certificate of Correction

Please Issue a Certificate of Correction as specified:

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 5,545,404

Patented: 13 August 1996

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. § 256, it has been found that the above identified patent, through error and without any deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is

**Martin John Page**, Beckenham, United Kingdom  
**James Scott Crowe**, United Kingdom

Stephen Walsh  
Stephen Walsh, SPE  
Art Unit 1812